



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/240,563	01/29/1999	DAVID J. BOOTHBY	05110/003004	7489

26161 7590 08/16/2006

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/240,563

Applicant(s)

BOOTHBY, DAVID J.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/27/04, 8/12/04</u> Y 7/05 | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remarks

1. The Request for Reconsideration filed on August 2, 2006 has been received and entered. Claims 22-27 are pending.

Terminal Disclaimer

2. The terminal disclaimer filed on 2/17/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 5,684,990 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Information Disclosure Statement

3. The information disclosure statements (IDS) submitted on 8/12/2004, 8/27/2004, and 1/1/2005 has been again reviewed in light of Applicant's argument. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

4. Claims 22-23, and 26-27 are objected to because of the following informalities:

In claims 22, and 23, the recitation of "for" and "so that" in various lines which

Art Unit: 2165

constitute Intended use and does not carry patentable weight since it never has to occur. Claims should be amended to recite more firm and positive language (i.e. "based on", "of", "is", "that", "to", or "wherein"). Appropriate correction is required.

In claims 22, and 23, the recitation of "its", in line 10, is considered indefinite for failing to particularly point out what is being referenced by the "its". Correction is required.

Claims 22, and 23 recite the limitation "the contents" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 22, and 23 recite the limitation "the time" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 22, and 23 recite the limitation "the plurality of databases" in line 5. There is insufficient antecedent basis for this limitation in the claim. Is the reference made to the same "plurality of disparate databases" or it's made with respect to new "plurality of databases"? Correction is required.

Claims 22, and 23 recite the limitation "the earlier" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claims 22, and 23 recite the limitation "the outcome" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claims 22, and 23 recite the limitation "the contents" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claims 26, and 27 recite the limitation "the corresponding record" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 22-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Woodhill et al. (U.S. Patent No. 5,649,196).

As to claim 22, Woodhill et al. discloses a data processing method for synchronizing the data records of a plurality of disparate databases, the method comprising the steps of:

providing a status file containing data records reflecting the contents of data records existing in at least one of the disparate databases at the time of a prior synchronization (See column 4, lines 1-11, also see column 4, lines 48-61);

comparing data records from at least one of a first and a second of the plurality of databases to corresponding data records of the status file to determine whether data records of the database have changed or been deleted since the prior synchronization or whether there are new data records since the earlier synchronization (See abstract, also see column 7, lines 9-28);

updating the first and second databases based on the outcome of the comparing step; and updating the status file so that its data records reflect the contents of the data records after they have been updated (See column 6, lines 21-39),

wherein the data records of the first and the second databases are without unique identification codes (See flow chart in Figure 5A, shows a back-up queue record if found doesn't need to have unique identification codes in the right side of the chart).

As to claim 23, Woodhill et al. discloses a data processing method for synchronizing the data records of a plurality of disparate databases, the method comprising the steps of:

providing a status file containing data records reflecting the contents of data records existing in at least one of the disparate databases at the time of a prior synchronization (See column 4, lines 1-11, also see column 4, lines 48-61);

comparing data records from at least one of a first and a second of the plurality of databases to corresponding data records of the status file to determine whether data records of the database have changed or been deleted since the prior synchronization or whether there are new data records since the earlier synchronization (See abstract, also see column 7, lines 9-28);

updating the first and second databases based on the outcome of the comparing step; and updating the status file so that its data records reflect the contents of the data records after they have been updated (See column 6, lines 21-39),

wherein at least the data records of the first database are identified by unique identification codes (See column 17, lines 18-40, wherein “unique identification code” reads on “version”, also see column 18, lines 28-38).

As to claim 24, Woodhill et al. discloses the method of claim 22 or 23 wherein the correspondence between data records of the first and second databases is achieved by comparing key fields of the databases (See column 15, lines 56-65).

As to claim 25, Woodhill et al. discloses the method of claim 23 wherein data records of the status file are identified by the unique identification code of the first database (See column 17, lines 18-40, wherein “the unique identification code” reads on “version”).

As to claim 26, Woodhill et al. discloses the method of claim 22, 23, or 25 wherein the comparing step further comprises deciding whether to delete a data record from the first database based on the comparing step having determined that the corresponding record of the second database has been deleted since the earlier synchronization (See abstract, also see column 7, lines 9-28).

As to claim 27, Woodhill et al. discloses the method of claim 24 wherein the comparing step further comprises deciding whether to delete a data record from the first database based on the comparing step having determined that the corresponding record of the second database has been deleted since the earlier synchronization (See abstract, also see column 7, lines 9-28).

Response to Arguments

7. Applicant's arguments filed on August 2, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that "Woodhill does not teach synchronizing the data records of plurality of disparate databases [at least first and second databases]. Woodhill is concerned with backing up files, there is no synchronization (two way process), in which both first and second databases are updated" is acknowledged but not deemed to be persuasive.

No only does the body of the claim not recite "synchronization" between two databases; Google, defines synchronization to be: "The ability to merge two or more copies of a database

together, preserving rather than overwriting the latest changes made in any copy. Summation and Concordance both have synchronization features so that remote users can synchronize back to network copies". Thus, suggesting that synchronization can occur within a single database (i.e. versioning as disclosed by Woodhill). The claims do not recite, "comparing" between two different databases, instead they recite, "comparing data records from *at least one* (emphasis added) database"... to itself (current version with any prior versions).

Woodhill teaches in column 17, lines 18-27, each binary object comprising the current version of the file can be restored to the binary object comprising the previous version of the file by restoring and updating only those "granules" of the current version of the binary objects that are different between the current and previous versions of the binary objects. Thus reading on the argued limitation.

Furthermore, if the results of the "comparing" step are null (no records have been changed); then, no update will be made to either database.

In response to applicant's argument that "Woodhill does not teach operations that compare the data records of two databases as called for in the claims. Woodhill is concerned with backing up files, there is no examination of the data records of the database file back" is acknowledged but not deemed to be persuasive.

Data records are broad enough to be interpreted to be any variety of data (i.e. files, documents, or transactions). The type of data claimed is considered non-functional descriptive material and doesn't carry patentable weight within itself. More so, Woodhill in column 4, lines 1-15 teaches data records.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zondervan et al. (U.S. Patent No. 6,516,327 B1) teaches delta files using in synchronizing databases.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
August 10, 2006



JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100